THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No. 11095 OF 1997
Date: 29th day of November,2006.

Between:
Kudigunti Atma Ramaiah

Petitioner

And

Govt. of Andhra Pradesh, rep. by the Chief Secretary,
Hyderabad and two others.

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.11095 of 1997

ORDER:

1. This writ petition has been instituted for declaring the order passed by the Revenue Divisional Officer, Karimnagar on 13-6-1995 declining to make a reference under Section 18 of the Land Acquisition Act,1894 (hereinafter be referred to as 'the Act') as bad and illegal.

2. Heard Ms.Aruna, representing the learned counsel for the writ petitioner.

3. The writ petitioner has specifically asserted that he was not present at the time when the Collector passed the award fixing the compensation amount payable for the land acquired inasmuch as notice under Section 9 (3) of the Act was not given to him before passing of the award. On coming to know that the award in question has been passed on 20-11-1994 determining an amount of Rs.19,442/- as payable to the writ petitioner, he has filed an application on 24-3-1995 soliciting a reference under Section 18 of the Act to the Civil Court for determining the market value at the rate of Rs.2,000/- per gunta (Rs.80,000/- per acre) and that he is entitled for other benefits such as solatium, additional market value, and interest etc. This request of the writ petitioner has been declined on the ground that the time for soliciting such reference has expired. Sub section 2 of Section 18 which is relevant for the present purpose reads as follows:

> *"The application shall state the grounds on which objection to the award is taken.*
>
> *Provided that every such application shall be made:-*
>
> *(a) if the person making it was present or represented before the Collector at the time when he made his award within six weeks from the date of the Collector's award;*
>
> *(b) In other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section (2), or within six months from the date of the Collector's award, whichever*

period shall first expire."

3. Therefore, the point of time for commencement of period of limitation is the service of notice of making the award by the Collector under sub section 2 of Section 12 of the Act. In all other cases, the period of limitation would be six months from the date of the Collector's award. It is not in dispute that the application was made by the writ petitioner within a period of six months from the date the award has been passed by the Collector but the entire question centers around whether notice under sub section 2 of Section 12 of the Act has been served as was asserted in the impugned order. Unfortunately the impugned order does not refer to the actual date on which the notice under sub section 2 of Section 12 of the Act has been served on the writ petitioner. Therefore, in the absence of this crucial information, the period of limitation of six months has to be necessarily reckoned from the time the award has been passed. It is not in dispute that the award in question had been passed on 20-11-1994 and when six months period was reckoned from the said date, the application of the writ petitioner is undoubtedly within the time limit. In the absence of any information or assertion, that notice under Section 12(2) of the Act has been actually served on the writ petitioner after 20-11-2004, on any specified date, the period of limitation that is liable to be reckoned is six months. Therefore, the action of the third respondent in declining to make a reference under Section 18 of the Act with regard to the claim of the writ petitioner seeking for enhancement of the compensation is improper. The Revenue Divisional Officer is directed to make a reference under Section 18 of the Act within a period of one month from the date of receipt of this order to the civil court to enable it to adjudicate upon the claim of the writ petitioner that the value of the land that should be Rs.2,000/- per gunta

(Rs.80,000/- per acre) together with the other benefits under law.

4. Accordingly, the writ petition is allowed but however without costs.

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NOOTY RAMAMOHANA RAO,J

29-11-2006
Stp